

ESTTA Tracking number: **ESTTA143917**

Filing date: **06/04/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding.	91160944
Applicant	Plaintiff RED BULL GMBH
Other Party	Defendant Tequila Cuervo La Rojena, S.A. De C.V.

Motion for an Extension of Time to Answer With Consent

RED BULL GMBH's answer is currently due on 06/06/2007, and the close of discovery is currently set for 09/05/2007. RED BULL GMBH requests that its time to answer be extended by 60 days from the current due date, or until 08/05/2007. The grounds for applicant's request are as follows:

- *The parties are discussing settlement*
- *Opposer has previously provided a detailed report on the progress of settlement negotiations, including a recitation of issues resolved and remaining and a firm timetable for resolution. The Board, in granting the prior stipulated extension, has asked for a further update. In response, the parties report that continued substantial progress is being made and after a series of meetings and discussions among Opposer Red Bull and its counsel, and discussions with counsel for Applicant, proposals have been made to resolve what the parties understand to be the last remaining issues, dealing with such things as the use of color and color words on the label by Applicant, inclusion of another jurisdiction in the overall multi-country settlement, inclusion of additional applications that will now not have to be opposed, inclusion of provisions for letters of consent, and further qualifications on use of a house mark with the marks in question. Opposer Red Bull believes that the new terms will satisfy all outstanding mutual concerns of these two major beverage industry entities and allow a global settlement to proceed. Applicant has not yet been able to fully respond to the new terms. The INTA Annual Meeting caused some delays in formulating and presenting the terms, and the recent Memorial Day and prior Easter Holiday weekends (especially in Europe) created further delays. However, if these terms are acceptable, the parties will have agreed to resolve the U.S. dispute in conjunction and coordination with similar disputes in Canada, Switzerland and all 27 countries of the European Union. In addition, the inclusion of additional marks in the settlement will further avoid - with near certainty - several additional oppositions which would have otherwise been necessary. As indicated previously, the parties prefer that the ultimate terms of settlement remain confidential and for that reason are reluctant to identify specific terms and issues in this communication. However, as explained in the prior reports and above, the parties believe they have developed a common, acceptable framework for resolving issues relating to the design features of certain labels, how to deal with the color on the labels (and in particular, the color of the bulls or bovine animals on the labels), certain additional label color limitation issues, letters of consent to additional marks, and use of house marks on the labels to minimize further conflict. The parties would also again note that they are each substantial companies with National fame and reputation, and including widespread U.S. and international interests, that each is represented by experienced legal counsel and are not motivated by any desire to delay these proceedings, that because the settlement now involves multiple jurisdictions the draft settlement terms must be separately reviewed by counsel in multiple jurisdictions, and that the parties themselves are each foreign entities (Mexico and Austria), which factors unfortunately do delay the review and ultimate response. The full settlement, which now appears to be very likely, will avoid additional conflicts both in the U.S. and abroad, and the parties respectfully request and appreciate the Board's indulgence and patience while they finalize this complex settlement. In view of this the parties are jointly requesting a 60 day extension/resetting of all dates.*

RED BULL GMBH has secured the express consent of all other parties to this proceeding for the extension requested herein.

RED BULL GMBH has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Respectfully submitted,

/Martin R. Greenstein/

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